

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

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JENNIFER KENYON

Plaintiff,

Case No.: 1:20-cv-00261

v.

DIVERSE FUNDING ASSOCIATES, LLC and  
ATLANTIC RECOVERY SOLUTIONS, LLC

Defendants.

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**DEFENDANT DIVERSE FUNDING ASSOCIATES, LLC'S  
ANSWER TO PLAINTIFF'S COMPLAINT**

Defendant Diverse Funding Associates, LLC ("Defendant"), by and through its undersigned counsel, for its Answer to Plaintiff's Complaint, upon information and belief, states as follows:

**I. INTRODUCTION**

1. Defendant admits that the Complaint alleges violations of the Fair Debt Collection Practices Act. Defendant denies that it violated said statute.

**II. JURISDICTION AND VENUE**

2. The allegations in Paragraph 2 constitute conclusions of law, to which no response is required. To the extent that a response is required, Defendant denies each and every allegation in Paragraph 2.

3. The allegations in Paragraph 3 constitute conclusions of law, to which no response is required. To the extent that a response is required, Defendant denies each and every allegation in Paragraph 3.

### **III. PARTIES**

4. Defendant lacks knowledge or information sufficient to form a belief as to the allegations contained in Paragraph 4, and therefore denies same.

5. Admitted in part. Defendant admits that it is a Delaware limited liability company. Defendant denies each and every remaining allegation in Paragraph 5.

6. Defendant lacks knowledge or information sufficient to form a belief as to the allegations contained in Paragraph 6, and therefore denies same.

7. Defendant denies each and every allegation in Paragraph 7.

8. Defendant lacks knowledge or information sufficient to form a belief as to the allegations contained in Paragraph 8, and therefore denies same.

9. Defendant lacks knowledge or information sufficient to form a belief as to the allegations contained in Paragraph 9, and therefore denies same.

10. Defendant denies each and every allegation in Paragraph 10.

### **IV. FACTUAL ALLEGATIONS**

11. Defendant lacks knowledge or information sufficient to form a belief as to the allegations contained in Paragraph 11, and therefore denies same.

12. Defendant lacks knowledge or information sufficient to form a belief as to the allegations contained in Paragraph 12, and therefore denies same.

13. Defendant lacks knowledge or information sufficient to form a belief as to the allegations contained in Paragraph 13, and therefore denies same.

14. Defendant denies each and every allegation in Paragraph 14.

15. Defendant lacks knowledge or information sufficient to form a belief as to the allegations contained in Paragraph 15, and therefore denies same.

16. Defendant lacks knowledge or information sufficient to form a belief as to the allegations contained in Paragraph 16, and therefore denies same.

17. Defendant lacks knowledge or information sufficient to form a belief as to the allegations contained in Paragraph 17, and therefore denies same.

18. Defendant lacks knowledge or information sufficient to form a belief as to the allegations contained in Paragraph 18, and therefore denies same.

19. Defendant lacks knowledge or information sufficient to form a belief as to the allegations contained in Paragraph 19, and therefore denies same.

20. Defendant lacks knowledge or information sufficient to form a belief as to the allegations contained in Paragraph 20, and therefore denies same.

21. Defendant lacks knowledge or information sufficient to form a belief as to the allegations contained in Paragraph 21, and therefore denies same.

22. Defendant lacks knowledge or information sufficient to form a belief as to the allegations contained in Paragraph 22, and therefore denies same.

23. Defendant denies each and every allegation in Paragraph 23.

#### **V. CAUSE OF ACTION**

24. With respect to Paragraph 24, Defendant repeats and realleges its answer to the allegations set forth in all of its responsive Paragraphs as if same were fully set forth at Paragraph 24.

25. Defendant denies each and every allegation in Paragraph 25.

26. Defendant denies each and every allegation in Paragraph 26.

27. Defendant denies each and every allegation in Paragraph 27.

**FIRST AFFIRMATIVE DEFENSE**

28. The Complaint fails to state a claim upon which relief can be granted against the answering Defendant.

**SECOND AFFIRMATIVE DEFENSE**

29. Plaintiff failed to mitigate her damages.

**THIRD AFFIRMATIVE DEFENSE**

30. Plaintiff's claims alleged in the Complaint are barred by the statute of limitations.

**FOURTH AFFIRMATIVE DEFENSE**

31. Defendant is not a debt collector as defined by the Fair Debt Collection Practices Act.

**FIFTH AFFIRMATIVE DEFENSE**

32. Plaintiff's claims may be precluded, in whole or part, to the extent Plaintiff's purported damages, if any, were caused by Plaintiff's acts and/or omissions.

**SIXTH AFFIRMATIVE DEFENSE**

33. Plaintiff's claims may be precluded, in whole or part, to the extent Plaintiff's purported damages, if any, were caused by third parties over whom Defendant had no control or authority.

**SEVENTH AFFIRMATIVE DEFENSE**

34. Plaintiff's Complaint fails to name a necessary party.

WHEREFORE, Defendant Diverse Funding Associates, LLC respectfully demands judgment against the Plaintiff dismissing the Complaint in its entirety together for such other, further or different relief, not inconsistent herewith, as may be just, equitable and proper, together with the costs and disbursements of this action.

DATED: March 30, 2020

**LIPPES MATHIAS WEXLER FRIEDMAN LLP**

/s/ Brendan H. Little

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